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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

1 ROYAL PRINTEX, INC., a California
2 Corporation,
3 Plaintiff,
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5 v.
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7 YM USA LLC, a New Jersey Limited
8 Liability Company; J & K APPAREL,
9 INC., a California Corporation; and
10 DOES 1 through 10,
11
12 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR
CONTRIBUTORY COPYRIGHT
INFRINGEMENT

Jury Trial Demanded

Plaintiff ROYAL PRINTEX, INC., by and through its undersigned attorneys, hereby prays to this honorable Court for relief as follows:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*

2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).

3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

PARTIES

1. Plaintiff, ROYAL PRINTEX, INC (“ROYAL PRINTEX”) is a corporation organized and existing under the laws of the State of California with its principal place of business located in the Los Angeles County.

2. Plaintiff is informed and believes and thereon alleges that Defendant YM USA LLC, individually and doing business as URBAN PLANET, ANNIE SEZ, and MANDEE (collectively, “YM”), is a corporation organized and existing under the laws of the state of New Jersey, and is doing business in and with the state of California.

3. Plaintiff is informed and believes and thereon alleges that J & K Apparel, Inc. (J & K) is a corporation organized and existing under the laws of the state of California, and is doing business in and with the state of California.

4. Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to

1 amend this Complaint to show their true names and capacities when same have been
2 ascertained.

3 5. Plaintiff is informed and believes and thereon alleges that at all times
4 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
5 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
6 at all times acting within the scope of such agency, affiliation, alter-ego relationship
7 and/or employment; and actively participated in or subsequently ratified and
8 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
9 all the facts and circumstances, including, but not limited to, full knowledge of each
10 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
11 caused thereby.

12 **CLAIM RELATED TO DESIGN R-21457 and R-8821**

13 6. Prior to the conduct complained of herein, Plaintiff composed an original
14 two-dimensional artworks for purposes of textile printing, which are set forth
15 hereinbelow. Plaintiff allocated these artworks with internal design numbers R-
16 21457 ("Subject Design A") and R-8821 ("Subject Design B"). These artworks, and
17 the source artworks from which the Subject Designs were created, are, and at all
18 relevant times were, owned exclusively by Plaintiff. Subject Design A and Subject
19 Design B are collectively referred to herein as the "Subject Designs."

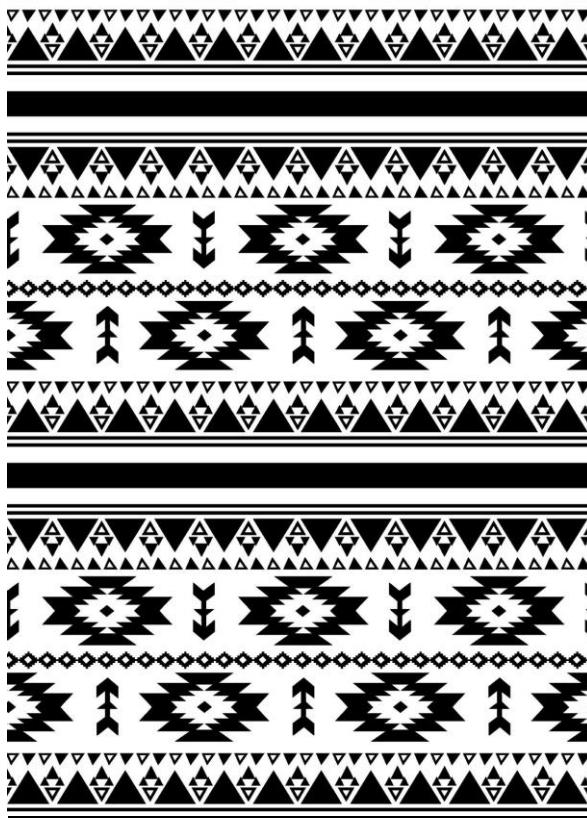
20 7. Plaintiff applied for and received a United States Copyright Registration
21 for the Subject Designs and the source artworks from which the Subject Designs
22 were created.

23 8. A true and correct image of each of the Subject Designs is provided below:

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27 ///

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Subject Design A:



Subject Design B:



1 9. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
2 bearing Subject Design to numerous parties in the fashion and apparel industries.

3 10. Plaintiff is informed and believes and thereon alleges that, following this
4 distribution of fabric bearing the Subject Designs, YM and certain DOE Defendants
5 created, sold, manufactured, caused to be manufactured, imported and distributed
6 fabric and/or garments comprised of fabric bearing an unauthorized reproduction of
7 Subject Design A (“Subject Product A”). Such Subject Product A includes but is not
8 limited to the following:

9 a. YM garments sold under, *inter alia*, SKU 46933313, and bearing the
10 “UK2LA” label and RN 73023, indicating said garments were
11 manufactured by, caused to be manufactured by, or supplied by YM.
12 A non-exclusive exemplar of such Subject Product A with tags is set
13 forth below:



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2 11. Plaintiff is informed and believes and thereon alleges that, following this
3 distribution of fabric bearing Subject Design, YM, J & K, and certain DOE
4 Defendants created, sold, manufactured, caused to be manufactured, imported and
5 distributed fabric and/or garments comprised of fabric bearing an unauthorized
6 reproduction of Subject Design B (“Subject Product B”). Such Subject Product B
7 includes but is not limited to the following:

8 a. YM garments sold under, *inter alia*, SKU 53906657, and bearing the
9 “J & K” label, indicating said garments were manufactured by,
10 caused to be manufactured by, or supplied by J & K. A non-exclusive
11 exemplar of such Subject Product B with tags is set forth below:



12. Plaintiff is informed and believes and thereon alleges that Defendants, and
1 each of them, have committed copyright infringement with actual or constructive
2 knowledge of Plaintiff's rights and/or in blatant disregard for Plaintiff's rights, such
3 that said acts of copyright infringement were, and continue to be, willful, intentional
4 and malicious, subjecting Defendants, and each of them, to liability for statutory
5 damages under Section 504(c)(2) of the Copyright Act in the sum of up to one
6 hundred fifty thousand dollars (\$150,000) per infringement.

13. A comparison of the Subject Designs and the above non-exclusive
9 exemplars of Subject Products A and B above makes apparent that the elements,
10 composition, colors, arrangement, layout, and appearance of the designs at issue are
11 substantially similar.

12 **FIRST CLAIM FOR RELIEF**

13 (For Copyright Infringement – Against All Defendants, and Each)

14 1. Plaintiff repeats, realleges, and incorporates herein by reference as though
15 fully set forth, the allegations contained in the preceding paragraphs of this
16 Complaint.

17 2. Plaintiff is informed and believes and thereon alleges that Defendants, and
18 each of them, had access to the Subject Designs, including, without limitation,
19 through (a) access to Plaintiff's showroom and/or design library; (b) access to
20 illegally distributed copies of the Subject Designs by third-party vendors and/or
21 DOE Defendants, including without limitation international and/or overseas
22 converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d)
23 garments manufactured and sold to the public bearing fabric lawfully printed with
24 the Subject Designs by Plaintiff for its customers.

25 3. Plaintiff is informed and believes and thereon alleges that one or more of
26 the Defendants manufactures garments and/or is a garment vendor. Plaintiff is
27 further informed and believes and thereon alleges that said Defendant(s) has an

1 ongoing business relationship with Defendant retailers, and each of them, and
2 supplied garments to said retailer, which garments infringed the Subject Designs in
3 that said garments were composed of fabric which featured unauthorized print
4 design(s) that were identical or substantially similar to the Subject Designs, or were
5 an illegal derivation or modification thereof.

6 4. Plaintiff is informed and believes and thereon alleges that Defendants, and
7 each of them, infringed Plaintiff's copyright by creating, making, and/or developing
8 directly infringing and/or derivative works from the Subject Designs and by
9 producing, distributing and/or selling garments which infringe the Subject Designs
10 through a nationwide network of retail stores, catalogues, and through on-line
11 websites.

12 5. Due to Defendants' acts of infringement, Plaintiff has suffered substantial
13 damages to its business in an amount to be established at trial.

14 6. Due to Defendants' acts of infringement, Plaintiff has suffered general and
15 special damages in an amount to be established at trial.

16 7. Due to Defendants' acts of copyright infringement as alleged herein,
17 Defendants, and each of them, have obtained direct and indirect profits they would
18 not otherwise have realized but for their infringement of the Subject Designs. As
19 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
20 indirectly attributable to Defendants' infringement of the Subject Designs in an
21 amount to be established at trial.

22 8. Plaintiff is informed and believes and thereon alleges that Defendants, and
23 each of them, have committed acts of copyright infringement, as alleged above,
24 which were willful, intentional and malicious, which further subjects Defendants,
25 and each of them, to liability for statutory damages under Section 504(c)(2) of the
26 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
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1 infringement. Within the time permitted by law, Plaintiff will make its election
2 between actual damages and statutory damages.

3 **SECOND CLAIM FOR RELIEF**

4 (For Vicarious and/or Contributory Copyright Infringement - Against All
5 Defendants)

6 9. Plaintiff repeats, realleges, and incorporates herein by reference as though
7 fully set forth, the allegations contained in the preceding paragraphs of this
8 Complaint.

9 10. Plaintiff is informed and believes and thereon alleges that Defendants
10 knowingly induced, participated in, aided and abetted in and profited from the illegal
11 reproduction and/or subsequent sales of garments featuring the Subject Designs as
12 alleged herein.

13 11. Plaintiff is informed and believes and thereon alleges that Defendants, and
14 each of them, are vicariously liable for the infringement alleged herein because they
15 had the right and ability to supervise the infringing conduct and because they had a
16 direct financial interest in the infringing conduct.

17 12. By reason of the Defendants', and each of their, acts of contributory and
18 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
19 suffer substantial damages to its business in an amount to be established at trial, as
20 well as additional general and special damages in an amount to be established at
21 trial.

22 13. Due to Defendants', and each of their, acts of copyright infringement as
23 alleged herein, Defendants, and each of them, have obtained direct and indirect
24 profits they would not otherwise have realized but for their infringement of the
25 Subject Designs. As such, Plaintiff is entitled to disgorgement of Defendants' profits
26 directly and indirectly attributable to Defendants' infringement of the Subject
27 Designs, in an amount to be established at trial.

1 14. Plaintiff is informed and believes and thereon alleges that Defendants, and
2 each of them, have committed acts of copyright infringement, as alleged above,
3 which were willful, intentional and malicious, which further subjects Defendants,
4 and each of them, to liability for statutory damages under Section 504(c)(2) of the
5 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
6 infringement. Within the time permitted by law, Plaintiff will make its election
7 between actual damages and statutory damages.

PRAYER FOR RELIEF

9 | Wherefore, Plaintiff prays for judgment as follows:

Against All Defendants

14. With Respect to Each Claim for Relief

- a. That Defendants, each of them, and their agents and employees be enjoined from infringing Plaintiff's copyrights in any manner, specifically those for the Subject Designs;
- b. That Defendants, and each of them, account to Plaintiff for their profits and any damages sustained by Plaintiff arising from the foregoing acts of infringement, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

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1 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.
2 38 and the 7th Amendment to the United States Constitution.
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5 Respectfully submitted,
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8 Dated: July 6, 2016
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10 By: /s/ Scott Alan Burroughs
11 Scott Alan Burroughs, Esq.
12 Trevor W. Barrett, Esq.
13 DONIGER / BURROUGHS
14 Attorneys for Plaintiff
15 ROYAL PRINTEX, INC.
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